

S.D.N.Y.-N.Y.C.
12-cv-3391
Griesa, J.

United States Court of Appeals
FOR THE
SECOND CIRCUIT

At a stated term of the United States Court of Appeals for the Second Circuit, held at the Thurgood Marshall United States Courthouse, 40 Foley Square, in the City of New York, on the 11th day of January, two thousand seventeen.

Present:

Reena Raggi,
Denny Chin,
Raymond J. Lohier, Jr.,
Circuit Judges.

**USDC SDNY
DOCUMENT
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DATE FILED: January 11, 2017**

Phoebe Berg, *et al.*,

Plaintiffs-Appellees,

v.

NYCP Commissioner Raymond Kelly, *et al.*,

16-3146

Defendants-Appellants,

NYC PD Officer Sgt. Yesenia Ayala, Sh. No. 13587, *et al.*,

Defendants.

Appellees move to dismiss this appeal for lack of jurisdiction. Upon due consideration, it is hereby ORDERED that the motion is DENIED. The court has jurisdiction over this appeal to determine whether Appellants are entitled to qualified immunity as a matter of law to the extent that they can support their defense on Appellees' "version of the facts that the district judge deemed available for jury resolution." *Lynch v. Ackley*, 811 F.3d 569, 576 (2d Cir. 2016) (internal quotation marks omitted).

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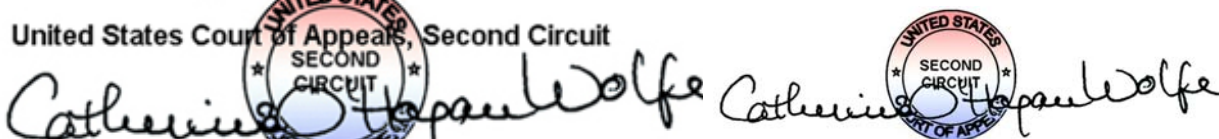

Catherine O'Hagan Wolfe, Clerk

United States Court of Appeals, Second Circuit

FOR THE COURT:

Catherine O'Hagan Wolfe, Clerk of Court

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